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10/796,557

03/09/2004

Craig Van Buuren

10908/9 (MAJR)

1076

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EXAMINER

FIORITO, JAMES

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

02/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-24 are rejected under as obvious over Pennsylvania Department of Environmental Protection “Coal Mine Drainage Prediction and Pollution Prevention in Pennsylvania”.

The department teaches a method of simulating a process in which ore, in a heap, is microbiologically leached, the method including the steps of microbiologically leaching material, representative of the ore, in a housing defining an enclosed, confined volume, monitoring the temperature of the material, inside the volume, at each of a plurality of locations and, in response to the monitored temperatures, controlling heat loss from the confined volume effectively to zero (Figure 7.12).

Response to Arguments

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Applicant's arguments filed 11/21/08 have been fully considered but they are not persuasive.

Applicant argues the prior art does not teach monitoring the localized temperature at a plurality of location and in response to the monitored temperatures, controlling heat loss from the confined volume, since the amount of heat generated in the system may change with respect to the operating parameters of flow rate and heap size. In response, the prior art teaches that the column is operated to maintain a constant temperature, thereby controlling the heat loss from the confined volume. Since the prior art does not expressly teach a feedback control loop for maintaining the control of heat loss, it is implied that changes of process parameters that occur in the prior art would require manual manipulation of the coolant to compensate for changes in the process parameters that effect the amount of heat generated in the column. The difference between the prior art and the claimed invention is that the claimed invention responds to fluctuation of process parameters by an automated feedback control loop and the prior requires a manual response.

It is well settled that it is not invention to broadly provide a mechanical or automatic means to replace a manual activity which has accomplished the same results. *In re Venner and Bower* 9 USPQ 220.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. FIORITO whose telephone number is (571)272-7426. The examiner can normally be reached on 9am - 6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A Fiorito/
Examiner, Art Unit 1793

/Wayne Langel/
Primary Examiner, Art Unit 1793

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| <div>Application Number</div> <div></div> | Application/Control No. | Applicant(s)/Patent under Reexamination | |
| | 10/796,557 | BUUREN, CRAIG VAN | |
| | Examiner | Art Unit | |
| | JAMES A. FIORITO | 1793 | |